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## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/786,788	02/25/2004	Jose L. Navia	CCF-6448NP

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.  
 SUITE 1111  
 526 SUPERIOR AVENUE  
 CLEVELAND, OH 44114-1400

CONFIRMATION NO. 3699

## FORMALITIES LETTER



\*OC000000012689630\*

Date Mailed: 05/17/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

07/30/2004 HLE333 00000082 10786788

01 FC:2051

65.00 OP

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

*Prehension*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Practitioner's Docket No. **CCF-6448NP**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Jose L. Navia et al.

Application No.: 10/786,788

Group No.: 3762

Filed: February 25, 2004

Examiner: TBD

For: **APPARTUS AND METHOD FOR AUTO-RETROPERFUSION OF A CORONARY VEIN**

**Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 223213-1450**

**COMPLETION OF FILING REQUIREMENTS  
NONPROVISIONAL APPLICATION**

*(check and complete this item, if applicable)*

- I. ☒ This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed **May 17, 2004**.

**NOTE:** If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application—Filing Date Granted (Form PTO-1533) is enclosed.

**NOTE:** The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

**CERTIFICATE OF MAILING/TRANSMISSION 37 CFR §§ 1.8(a) and 1.10\***

*(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional).*

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- ☒ deposited with the United States Postal Service in an envelope addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ **37 C.F.R. § 1.8(a)** with sufficient postage as first class mail. ☐ **37 C.F.R. § 1.10\*** as "Express Mail Post Office to Addressee" Mailing Label No. \_\_\_\_\_ (**mandatory**)

**TRANSMISSION**

- ☐ transmitted by facsimile to the Patent and Trademark Office

**Signature**

**Anita J. Galo**

*(type or print name of person certifying)*

Date: July 28, 2004

*\*Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

07/30/2004 HLE333 00000082 10786788

03 FC:2251

55.00 00

(Completion of Filing Requirements – Nonprovisional Application [5-1]--page 1 of 7)

## DECLARATION OR OATH

- II. ☒ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

NOTE: If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. § 1.48(f)(1).

## OR

- ☐ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: For surcharge fee for filing declaration after filing date complete item VII(3) below.

NOTE: "The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

"(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);

"(B) serial number and filing date;

"(C) attorney docket number which was on the specification as filed;

"(D) title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

"(E) title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration."

M.P.E.P. § 601.01(a), 7<sup>th</sup> Ed.

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☐ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

## AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims \_\_\_\_\_ inclusive.

## TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

- IV. ☐ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: Fee for processing a non-English application, complete item VII(5) below.

NOTE: A non-English oath or declaration in the form provided by the PTO need not be translated. 37 C.F.R. 1.69(b).

## OTHER DOCUMENTS

### V.

- (a) ☐ Attached is an Information Disclosure Statement, PTO-Form 1449 and ( ) references.
- (b) ☐ Attached is a request for a corrected filing receipt along with a copy of the official filing receipt received from the PTO in the above-identified patent application for which issuance of a corrected filing receipt is respectfully requested herewith.
- (c) ☐ Preliminary Amendment
- (d) ☐ Certified Copy of prior \_\_\_\_\_ Application No. \_\_\_\_\_, filed \_\_\_\_\_, from which priority is being claimed in the subject application is attached.
- (e) ☒ Letter Indicating Practitioners to be Recognized by the U.S. Patent and Trademark Office.

## SMALL ENTITY STATUS

### VI.

- (a) ☒ An assertion that this filing is by a small entity (check and complete applicable items)
- ☐ is attached.
- ☐ was filed on \_\_\_\_\_ (original).
- ☒ was made by paying the basic filing fee as a small entity.
- ☐ is being made now by paying the basic filing fee as a small entity.
- (b) ☐ A separate refund request accompanies this paper.

## COMPLETION OF FEES

### VII.

**WARNING:** Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. 1.53.

**NOTE:** For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. 1.28(a).

#### 1. Filing fee

- ☐ original patent application  
(37 C.F.R. § 1.16(a)--\$770.00; small entity--\$385.00) \$ \_\_\_\_\_
- ☐ design application  
(37 C.F.R. § 1.16(f)--\$340.00; small entity--\$170.00) \$ \_\_\_\_\_

#### 2. Fees for Claims

- ☐ each independent claim in excess of 3  
(37 C.F.R. § 1.16(b)--\$86.00; small entity--\$43.00) \$ \_\_\_\_\_
- ☐ each claim in excess of 20  
(37 C.F.R. § 1.16(c)--\$18.00; small entity--\$9.00) \$ \_\_\_\_\_
- ☐ multiple dependent claim(s)  
(37 C.F.R. § 1.16(d)--\$290.00; small entity--\$145.00) \$ \_\_\_\_\_

3. Surcharge fees

- ☒ declaration or oath late payment of filing fee and/or late filing of original (37 C.F.R. § 1.16(e))--\$130.00; small entity--\$65.00;

\$ 65.00

NOTE: If both the filing fee and declaration or oath were missing from the original papers, the Office practice under § 37 C.F.R. § 1.16(e) is that only one surcharge fee need be paid whether the later filed oath or declaration and/or the filing fee are submitted afterwards at the same time or at different times.

4. ☐ Petition and fee for filing by other than all the inventors or a person not the inventor (37 C.F.R. §§ 1.17(i) and 1.47--\$130.00)

\$

5. ☐ Fee for processing an application filed with a specification in a non-English language (37 C.F.R. §§ 1.17(k) and 1.52(d)--\$130.00)

\$

6. ☐ Fee for processing and retention of application (37 C.F.R. §§ 1.21(l) and 1.53(d)--\$130.00)

\$

7. ☒ Assignment (See "ASSIGNMENT COVER SHEET".)

\$ 40.00

NOTE: 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. 1.53(f) and this, as well as, the changes to 37 C.F.R. §§ 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(l) within 1 year of notification under § 1.53(f) must be paid.

Total completion fees

\$105.00

**EXTENSION OF TERM**

**VIII.**

(complete (a) or (b), as applicable)

NOTE: 37 C.F.R. § 1.704(b) "...an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

- (a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input checked="" type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$210.00
<input type="checkbox"/> three months	\$ 950.00	\$475.00
<input type="checkbox"/> four months	\$1,480.00	\$740.00

Fee \$ 55.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

**Extension fee due with this request \$55.00**

**OR**

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**TOTAL FEE DUE**

**IX.**

The total fee due is

Completion fee(s) \$105.00

Extension fee (if any) \$55.00

**Total Fee Due \$160.00**

**PAYMENT OF FEES**

**X.**

- ☒ Attached is a ☒ check ☐ money order in the amount of \$160.00
- ☒ Authorization is hereby made to charge the amount of \$0.00
- ☐ to Deposit Account No. 20-0090
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this request is attached.

## AUTHORIZATION TO CHARGE ADDITIONAL FEES

### XI.

**WARNING:** *Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.*

**NOTE:** *"Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).*

- ☒ The Office is hereby authorized to charge in the manner shown above, the following additional fees that may be required by this paper and during the entire pendency of this application.

☒ 37 C.F.R. § 1.16(a), (f) or (g) (filing fees)

☒ 37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** *Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.*

- ☒ 37 C.F.R. § 1.16(e)(surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☒ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a))

☐ 37 C.F.R. § 1.17 (application processing fees)

**NOTE:** *"A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).*

☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b))

**NOTE:** Section 1.311(b) provides that an authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application **only after the mailing of the notice of allowance**. Accordingly, general authorizations to pay fees and specific authorizations to pay the issue fee that are filed prior to the mailing of a notice of allowance will generally not be treated as requesting payment of the issue fee and will not be given effect to act as a reply to the notice of allowance. Applicant, when paying the issue fee, should submit a new authorization to charge fees, such as by completing box 6b on the current PTOL-85B form. Where no reply to the notice of allowance is received, the application will stand abandoned notwithstanding the presence of general authorizations to pay fees or a specific authorization to pay the issue fee that were submitted prior to mailing of the notice of allowance. Where an attempt is made to pay the issue fee but an incorrect amount is submitted § 1.311(b)(1), or where the Office's issue fee transmittal form (currently PTOL-85(B)) is completed by applicant and submitted, § 1.311(b)(2), in reply to a notice of allowance, an exception will be made. Such submissions will operate as a request to charge the issue fee to any deposit account identified in a previously filed (i.e., submitted prior to the mailing of the notice of allowance) authorization to charge fees, and will be allowed to act as payment of the correct issue fee. § 1.311(b). See also the change to § 1.26(b). Notice of September 8, 2000, Fed. Reg. 54603-54683, at 54646 and 54647.

**NOTE:** 37 C.F.R. 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying. . . issue fee . . ." From the wording of 37 C.F.R. § 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.



Reg. No.: 40,871

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**SIGNATURE OF PRACTITIONER**

Richard S. Wesorick

*(type or print name of attorney)*

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& Tummino L.L.P.  
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